

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

WASHINGTON, D. C.

ORDER NO. 841

IN THE MATTER OF:

Served July 19, 1968

Application of Eyre's Bus )  
Service, Inc., for Certificate )  
of Public Convenience and )  
Necessity Authorizing Charter )  
and/or Special Operations. )

Application No. 460

Docket No. 161

By Order No. 825, served June 4, 1968, the Commission granted applicant authority to engage in charter and special operations from an origin territory comprised of Damascus, Md., and points in Montgomery County, Md., within 15 miles thereof, except Rockville, Md., to various points in the Metropolitan District. The order further denied the application insofar as it sought authority to engage in charter operations serving points in Montgomery or Prince George's Counties, Maryland; limited the service to round trips; and restricted the applicant from serving passengers having a prior or subsequent movement by air.

By application filed July 5, 1968, protestant D. C. Transit System, Inc. ("Transit"), requests reconsideration of Order No. 825. It raises four basic grounds of error: (1) The evidence of record indicating a need for the proposed service is minimal and where shown the grant of authority should be restricted to the specific origin points; (2) The grant of authority should be restricted against sightseeing service; (3) The Commission placed undue weight upon the deadhead mileage of protestant; (4) Order No. 825 violates the protective provisions of Section 4(g), Article XII of the Compact.

Turning, first, to the protestant's initial contention to the effect that the grant of authority should be restricted to specified origins, there are several comments we wish to

make. First, we realize that it is often extremely difficult, if not impossible, to produce adequate rider testimony in cases of this sort. See Greyhound Lines v. U. S., et al, 1968 Fed. Car. Cases, p. 54,144. Not only did applicant overcome this problem, but in fact presented an impressive case consisting of 24 supporting witnesses appearing on behalf of themselves as well as numerous groups. All expressed a need for the proposed service. The points of origin indicated by these witnesses are numerous and adequately dispersed throughout the origin area granted in Order No. 825. We feel that origin and destination territories, for charter and special operation authority, are most appropriately made by general territorial grants rather than by an enumeration of specific points. See Harry Lee Eyre, Jr., Extension - Virginia, 81 MCC 645. Under the circumstances, not only would it be contrary to the evidence, it would seem to us excessively picayunish and unduly harsh to restrict the applicant's service to specific origin points.

Secondly, Transit's contention that the authority granted be restricted against sightseeing operations is equally unconvincing to us. All witnesses asserted that the applicant's past services have been satisfactory and that they, as well as the groups represented, would utilize the proposed services for a great variety of activities. The testimony indicates that several if not many of the proposed activities could obviously be termed sightseeing ventures. By this, we do not mean to imply that the applicant has presented a plethora of testimony indicative of a need for sightseeing authority, but that the imposition of such a restriction would be completely unwarranted and not justified by the record before us. In our opinion, the evidence of record completely supports our previous determination that the applicant, and its supporting witnesses, demonstrated a clear need for all of the authority we granted.

As to Transit's contention pertaining to our reliance upon excessive deadhead mileage as a factor, it is our opinion that our remarks there were correct and appropriate. Order No. 825 clearly indicates the fact that Transit stations some equipment at its Western Garage, which is located at Wisconsin and Harrison Street, N. W., in the District of Columbia; and that the applicant's terminal is located in Woodbine, Maryland. Western Garage is closer mileage-wise to only a tiny section of the origin territory than is Eyre's terminal.

The witnesses who appeared herein in support of applicant stated that they preferred its services because it was conveniently located in the origin area and that the utilization of more distantly located carriers would involve the payment of excessive deadhead mileage and frequently result in substantial inconvenience. As we pointed out in Order No. 825, the service of Transit is as a practical matter unfeasible. The Western Garage is at least ten air miles from the nearest part of the origin area, and twenty-five air miles from Damascus. The deadhead mileage in numerous cases would be double the actual trip miles. The circuitry, considerable backtracking, and the resulting delay presents an inconvenience entailed in Transit's service which simply renders it completely inadequate. In our opinion Washington-based equipment is simply not realistically located to meet the needs shown in this record. Even where Transit's Washington-domiciled equipment would be located relatively closer to the origin area, we are nevertheless aware of the fact that its Washington base involves more than just deadhead mileage. For instance, delay would result from traversing congested areas of the city as well as extensively developed suburban communities. Hence, it seems to us that it simply flies in the face of common sense to contend that any of Transit's equipment is based in a position more advantageous to render the proposed service than Eyre's. See Harry Lee Eyre, Jr., Extension - Damascus, Maryland, 106 MCC 851.

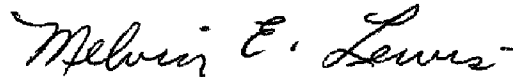
Lastly, in considering Transit's contention that the protective provisions of the Compact have been violated by Order No. 825, we need only reiterate that the Commission's interpretation of Section 4(g), Article XII of the Compact has been consistent and remains unchanged. We have never, nor do we now, interpret that section as applying to irregular as well as regular routes. Section 4(d)(1), Article XII of the Compact establishes a distinction between regular route authority and general irregular route territorial authority. Section 4(g) is reflective of this distinction and refers only to regular route operations. The obvious intent behind that section is to make it applicable only to regular routes and it is completely inapplicable to situations dealing with charter and special operations.

In our opinion, Transit's contentions are without merit and nothing whatsoever would be gained from reopening the proceeding for reconsideration. In Order No. 825 we considered carefully all the issues presented in that matter. We spelled

out in detail our disposition of those issues and reasons for our decision. We have reviewed Transit's application for reconsideration carefully and at length and we find nothing in it not adequately considered in Order No. 825 and nothing that would support reconsideration of that order. The evidence of record completely supports our prior findings, and, all things considered, Transit's application for reconsideration must be denied.

THEREFORE, IT IS ORDERED that the application of D. C. Transit System, Inc., for reconsideration of Order No. 825 be, and it is hereby, denied.

BY DIRECTION OF THE COMMISSION:

A handwritten signature in cursive script that reads "Melvin E. Lewis".

MELVIN E. LEWIS  
Executive Director